**BEFORE THE**

**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, D.C. 20554**

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| In the Matter of | ) | |
| | ) | |
| Recommendations of the Independent Panel | ) | |
| Reviewing the Impact of Hurricane Katrina on | ) | EB Docket No. 06-119 |
| Communications Networks | ) | |
| | ) | |

To: The Commission

# REPLY COMMENTS OF ALABAMA POWER COMPANY, GEORGIA POWER COMPANY, GULF POWER COMPANY, MISSISSIPPI POWER COMPANY, SOUTHERNLINC WIRELESS AND SOUTHERN COMPANY SERVICES


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## SUMMARY

The subsidiaries of Southern Company - Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company, all electric utility companies, SouthernLINC Wireless, a CMRS provider and Southern Company Services, a service company (collectively "Southern") - support, with few exceptions, the recommendations made to the Commission by the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks. Southern is concerned, however, with the comments of several parties which advocate that electric utilities should include communications providers on priority lists for the restoration of electric power in disaster areas and/or be required to coordinate their repair activities with communications providers. While these goals could be pursued on a voluntary basis, any mandated priority to communications providers or inter-industry coordination of repair activities would only serve to delay the restoration of electric power to first responders, other critical needs customers and communications providers. The most effective way to help ensure rapid restoration of power to communications providers is to include electric utilities in a credentialing program for access to disaster areas and in the definition of "emergency responder" under the Stafford Act.

The Commission should also reject arguments that interoperability grants under the Deficit Reduction Act of 2005 be limited to the purchase by first responders of 700 MHz band radio equipment and dual 700/800 MHz band equipment. Equipment that facilitates interoperability within or with the 700 MHz band - regardless of whether the equipment itself operates in that band – will satisfy both the Act and the public interest.

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Pursuant to the Commission's Notice of Proposed Rulemaking ("Notice"), FCC 06-83, released June 19, 2006,[1] the above-named subsidiaries of Southern Company (collectively referenced herein as "Southern"), hereby file their reply comments in the above-captioned proceeding.

Southern Company is a registered holding company under the Public Utility Holding Company Act of 1935, as amended.[2] Southern Company's four operating electric utility subsidiaries – Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (collectively the "Operating Companies") – provides retail and wholesale electric service throughout Georgia, most of Alabama and parts of Florida and Mississippi. With over 4 million customers, Southern Company is one of the largest electric utilities in the U.S. Southern Communications Services, Inc. d/b/a SouthernLINC Wireless

[1] The Notice is published at 71 Fed. Reg. 38564 (July 7, 2006).

[2] 15 U.S.C. § 79 *et seq.*

("SouthernLINC Wireless"), a wholly owned subsidiary of Southern Company, is a commercial mobile radio service ("CMRS") carrier that provides dispatch radio, interconnected telephony, data, text messaging and other wireless services to individual, business and public safety customers, as well as the Operating Companies. Its service territory encompasses both rural and urban areas that are generally the same areas served by the Operating Companies. SouthernLINC Wireless's service territory includes the Gulf Coasts of Alabama and Mississippi, the Florida panhandle, and the Atlantic Coast of Georgia, all of which are prone to hurricanes and related weather events.

## I. INTRODUCTION

This proceeding was initiated by the Commission to address and implement the recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks (the "Independent Panel").[3] Robert G. Dawson, President and Chief Executive Officer of SouthernLINC Wireless, was a member of the Independent Panel and shared the experiences of SouthernLINC Wireless and Southern Company's electric subsidiaries that were directly affected by Hurricane Katrina.

To provide the level of service required by the Operating Companies, SouthernLINC Wireless's network is designed and built to withstand the often extreme weather conditions in its service territory, including hurricanes. Additionally, SouthernLINC Wireless's network and operating procedures already reflect many of the Independent Panel's recommendations. As a result, in many instances, SouthernLINC Wireless provided the only immediate means of communicating in the coastal areas of Mississippi and Alabama that were hard hit by Hurricane

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[3] *See Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, Report and Recommendations to the Federal Communications Commission,* (June 12, 2006) ("Independent Panel Report").

Katrina. Ninety-eight percent of SouthernLINC Wireless's cell sites were online and providing communications on September 1, 2005, only three days after Hurricane Katrina struck, and 100% were online and providing communications on September 6, 2005.

With few exceptions, Southern supports the comments filed in this proceeding on August 7, 2006, that endorse the Independent Panel's recommendations. Of particular note, Southern supports the comments of those parties calling for the development of readiness checklists and industry best practices for disaster response, so long as such initiatives are *voluntary* and industry – not government – driven.[4] Southern also supports the comments calling for flexibility in the granting of Special Temporary Authority ("STA") and regulatory waivers in disaster situations.[5] Those recommendations, if implemented, will substantially contribute to minimizing the loss of vital communications capabilities in the event of natural or other disaster and will help to ensure the efficient and rapid recovery of those capabilities in the event there is a loss.

Southern is concerned, however, by the positions taken by several parties in the filed comments which could make disaster recovery more difficult. In particular, the Commission should not encourage state, local or other government agencies to require the inclusion of commercial communications providers on priority lists for electric power restoration or require coordination of the service restoration efforts of utilities and communications providers. While Southern supports voluntary initiatives along these lines, any mandated restoration priority or coordination will only hamper the efforts of electric utilities to restore power as rapidly as possible and address the service requirements of first responders and other critical needs

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[4] *See* Comments of the National Rural Electric Cooperative Association ("NRECA"), pp. 3-4; Comments of AT&T, Inc., pp. 4-5; Comments of Cingular Wireless LLC ("Cingular"), p. 7.

[5] *See, e.g.,* Comments of BellSouth Corporation, p. 7; Comments of Cingular, p. 8; Comments of the NRECA, p. 4.

customers (e.g., hospitals, nursing homes, evacuation centers) in disaster areas. Electric utilities' ability to restore service, however, would be enhanced if (i) electric utilities and their contractors were credentialed, along with communications providers, for entry into disaster areas, and (ii) electric utilities and communications providers were considered as "emergency responders" under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act").[6]

Further, federal grants that provide monetary assistance to first responders for purchasing interoperable communications equipment should not, and need not, be restricted only to equipment operating solely in the 700 MHz band or to dual band 700/800 MHz equipment. So long as the equipment facilitates interoperability within *or with* the 700 MHz band, the communications needs of first responders will be well served, and all statutory requirements will be met. These and other issues are discussed more fully below.

## II. DISCUSSION

### A. Including Commercial Communications Providers On Priority Lists for Commercial Power Restoration, or Mandating Inter-industry Coordination, Could Delay Power Restoration to Those Providers and Other Electric Utility Customers, Including First Responders

Several parties support the Independent Panel's recommendation that "the FCC should encourage, *but not require*" regional, state and local agencies to "[facilitate] electric and other utilities' maintenance of priority lists for commercial power restoration" and "[i]nclude commercial communications providers on this list and coordinate power restoration activities with communications restoration."[7] For example, CTIA states that "[g]iven wireless carriers'

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[6] 42 U.S.C. § 5170 *et. seq.*

[7] Independent Panel Report, pp. 35-36 (emphasis supplied).

role in communications during and after disasters, wireless facilities should receive priority for both electric power and landline service restoration."[8]

Southern Company, as the corporate parent of both SouthernLINC Wireless and the Operating Companies, understands - perhaps more than most parties to this proceeding - the interrelationship between electric power and commercial communications and the need for prompt electric service restoration to enable the full recovery of communications functionality in disaster areas. For this reason, Southern supports and encourages *voluntary* inter-industry cooperation in disaster preparedness and, to the extent practical, the coordination of service restoration activities between electric utilities and communications service providers.

Southern believes strongly, however, that the mandatory inclusion of communications providers on electric service restoration priority lists or a requirement of inter-industry coordination would not aid in speeding restoration efforts. To the contrary, as explained below, such requirements could unnecessarily complicate and delay the restoration of electric power to communications providers and other customers including first responders, particularly in the aftermath of major, wide-spread disasters such as hurricanes.

Southern's power restoration plans and procedures take into account the severity of the disaster as well as the importance of electric power restoration to critical services including hospitals, nursing homes, first responder facilities, water and sewer pumping facilities, emergency evacuation centers, and communications service providers, among others. They also take into account the surrounding geography, current weather conditions and the type of disaster

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[8] CTIA – The Wireless Association ® Comments, p. 16. *See also, e.g.,* Comments of USA Mobility, Inc., pp. 15 – 16; Verizon's Comments on the Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks ("Verizon Comments"), p. 22.

encountered. The goal is to restore power in a safe, orderly and reliable manner to the maximum number of customers – including critical needs customers – in the shortest time possible. The power restoration plans and procedures, however, serve as a guide, not a detailed recipe that requires repair personnel to follow precise steps and/or perform specific tasks in a prescribed order. Extensively trained repair workers are given substantial discretion to determine the actual steps to be taken to restore service to any facility and the sequence in which service will be restored. Restoration sequence will vary from disaster to disaster depending on the type, location and severity of the damage to the electric system, the design characteristics of the system in a particular area, the number of customers affected by the outage, existing weather conditions, and the ability of customers to safely receive electric service. Restoration priority cannot be mandated without seriously disrupting a utility's repair efforts and compromising the utility's ability to restore electric power as quickly as possible to its critical needs customers.

The success of cooperative planning and coordination of service restoration between and among electric utilities and communications service providers will depend on several factors including the location of each company's repair personnel and equipment and, most significantly, the extent of damage cause by the disaster. For example, coordination of power restoration with a communications provider's restoration of its service may be practical in the case of a mutual outage confined to a limited geographic area. As illustrated below, however, such coordination is not likely to succeed in a large area of catastrophic damage such as was caused by Hurricane Katrina.

Hurricane Katrina caused extensive damage to the electric generation, transmission and distribution facilities of Southern's subsidiary, Mississippi Power Company. At the height of the power restoration efforts, approximately 12,000 workers (including contractors) were actively

involved in restoration activities along the Mississippi Gulf Coast. The goal was to repair and restore electric service in a safe and orderly fashion to the maximum number of customers – including critical needs customers – in the shortest period of time. Achieving this goal required solving tremendous logistical issues including the deployment of repair personnel and equipment to numerous sites, many of which had damage that could not be fully assessed until workers were at the sites and engaged in the actual repair process. It also required instantaneous, on-the-spot decisions by repair workers that could not be contemplated by planning or scheduling. If required to coordinate its activities with multiple communications providers – each of whom was busy restoring its own system and managing its own logistical problems – restoration of both electric and communications services would have taken a considerably longer period of time than it did where each provider focused on repairing its own facilities.[9]

In sum, maintaining priority lists for the restoration of electric service to communications providers and coordinating repair activities between electric utilities and communications service providers are laudable goals. They should be pursued, where practical, on a voluntary basis. In practice, however, mandating such priority lists or requiring inter-industry coordination is likely to result in further service delays for the customers of both electric utilities and communication providers. Instead of increased regulation in this area, Southern recommends that electric utilities be allowed to continue the practice of restoring service to the largest number of customers in the quickest time possible, consistent with the various considerations that go into service restoration decisions. All electric utility customers, including first responders, critical

[9] Of course, there may be some instances where communications providers will require commercial electricity to complete their repair work and, as it often does, Southern will try to coordinate with such providers on a case-by-case basis.

needs customers (e.g., hospitals, nursing homes, evacuation centers), and communications providers, will benefit from this approach.

### B. In Order to Expedite the Restoration of Electric Power for Communications Service Providers, Utility Workers and Contractors Should Be Credentialed to Work in Disaster Areas, and Electric Utilities Should be Considered As "Emergency Responders" Under the Stafford Act

Southern fully supports the comments of those parties which urge the Commission, as recommended by the Independent Panel, to work with federal, state and local government agencies to develop credentialing requirements and procedures that will allow communications infrastructure providers and their contracted workers access to affected areas post-disaster.[10] As a result of Hurricane Katrina and other weather related events in the Southeast, SouthernLINC Wireless and the Operating Companies have first-hand experience with trying to get repair workers, including contractors, to both critical communications and electric utility sites within disaster areas. A credentialing standard, developed by the states but based on national guidelines, will facilitate repair worker access while at the same time protecting legitimate state and local interests regarding access to disaster areas. Southern agrees with the comments of parties recommending the Georgia Critical Infrastructure Owners/Operators Pilot Access Program and/or the Louisiana Statewide Credentialing/Access Programs as starting points for a credentialing program.[11]

In addition to credentialing communications workers and contractors, Southern urges the Commission to work with National Security Telecommunications Advisory Committee ("NSTAC") and other federal and state agencies to include electric utility maintenance and repair

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[10] *See, e.g.,* Comments of AT&T, Inc., pp. 9-10; Comments of Cingular, pp. 7-8; Comments of NENA, p. 11; CTIA – The Wireless Association ® Comments, p. 14.

[11] *See, e.g.,* Comments of AT&T, pp. 9-10; Verizon Comments, pp. 18-19.

workers and contractors within the credentialing guidelines.[12] Credentialing of electric utility workers and contractors will significantly help to establish electric power at the earliest possible time to communications service providers and first responders in the event of a disaster.

Southern also agrees with those comments that encourage the Commission to work with Congress and the appropriate federal departments and agencies to enable telecommunications infrastructure providers to be designated as "emergency responders" pursuant to the Stafford Act.[13] As with credentialing, Southern encourages the Commission to work with Congress and federal agencies and departments to include electric utilities and their repair workers and contractors within the definition of "emergency responders" under the Stafford Act.[14] Again, such inclusion would facilitate the restoration of electric power to communications service providers and other critical needs customers.[15]

### C. Criteria for Interoperability Grants Should Be Broadly Defined and Applied so as to Encourage the Most Expeditious Provisioning of Interoperable Communications Systems Among First Responders

Motorola argues that grants for interoperability provided for in the Deficit Reduction Act of 2005[16] must be limited only to radios "capable of operating on the 700 MHz interoperability

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[12] *See* Comments of NRECA, p. 5.

[13] *See, e.g.,* Comments of AT&T, Inc., p. 11; Comments of the United States Telecom Associations, p. 11; Comments of NRECA, p. 6.

[14] *See* Comments of NRECA, p. 6.

[15] *See* "Telecoms call for legal fixes after Katrina," C/Net News.com, June 1, 2006, *available at* http://news.com.com/Telecoms+call+for+legal+fixes+after+Katrina+-+page+3/2100-1037_3-6078811-3.html ("[I]f telecommunications companies are able to secure the "emergency responder" designation, . . . then other privately owned utilities deserve such privileges as well. After all, wireless and voice over Internet protocol phones 'are worthless unless electricity is flowing.'").

[16] Public Law 109-171; 120 Stat. 4, § 3006 (2006).

channels."[17] This, Motorola contends, means grants can be applied only to 700 MHz and dual band 700/800 MHz radio equipment.[18] Motorola states that "such a requirement will serve the public interest by promoting public safety interoperability in the 700 MHz band and between the 700 MHz and 800 MHz bands, *and maintaining interoperability in the 800 MHz band.*"[19]

Southern agrees with Motorola on the importance of "maintaining interoperability in the 800 MHz band" as well as interoperability between that band and the 700 MHz band. As Motorola notes, public safety agencies currently rely on 800 MHz band frequencies for "day-to-day activities and interoperability."[20] Indeed, many public safety and first responder entities in SouthernLINC Wireless's service area rely on SouthernLINC Wireless for their communication needs and have made significant investments in equipment for use on SouthernLINC Wireless's 800 MHz network. This is especially true in the largely rural areas served by SouthernLINC Wireless.

Southern disagrees, however, that these important public interest objectives, or the Deficit Reduction Act of 2005, require that interoperability grants be limited to only 700 MHz and dual band 700/800 MHz radio equipment. Motorola's limited view of the applicability of these grants appears to flow from its quote of Section 3006(a)(1) of the Act, from which Motorola omits relevant and important language.[21] Specifically, Section 3006(a)(1) provides that the National Telecommunications and Information Administration ("NTIA") and the Department of Homeland Security ("DHS") should "establish and implement a grant program to assist public

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[17] Comments of Motorola, Inc. ("Motorola Comments"), p. 11. *See also* Independent Panel Report, p. 38.

[18] *Id.*

[19] *Id.* (emphasis supplied).

[20] *See* Motorola Comments, p. 11.

[21] *Id.* at 10 – 11.

safety agencies in the acquisition of, deployment of, or training for the use of interoperable communications systems that utilize, *or enable interoperability with communications systems that can utilize*, reallocated public safety spectrum for radio communication."[22] The words Motorola omitted – *or enable interoperability with communications systems that can utilize* – are critical. So long as the grants are used for equipment that in some way (through dual band operation or otherwise) facilitates interoperability with public safety spectrum in the 700 MHz band - whether or not the equipment itself operates in that band – the grants will satisfy the requirements of the Act and will further the public interest. Accordingly, the grant criteria should not, and need not, be limited to any particular technology platform, such as 700 MHz band or dual 700/800 MHz equipment. As stated by the Department of Homeland Security:

> The first priority of federal funding for improving public safety communications is to provide basic, operable communications within a department with safety as the overriding consideration. Funding requests by agencies to replace or add radio equipment to an existing non-P25 system will be considered if there is an explanation as to how their radio selection will allow for improving interoperability or eventual migration to interoperable systems. This guidance does not preclude funding of non-P25 equipment where there are compelling reasons for using other solutions.[23]

In this regard, Southern agrees with M/A-COM that in providing funding for interoperability grants "Congress intended to provide interoperability in the most expedient manner possible."[24] This requires that the grant criteria to be developed by the NTIA and DHS

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[22] Public Law 109-171; 120 Stat. 4, § 3006(a)(1) (emphasis supplied).

[23] "Recommended Federal Grant Guidance, Public Safety Communications & Interoperability Grants, December 2005," p. 4, SAFECOM, Department of Homeland Security.

[24] Comments of M/A-COM, Inc., p. 17 (Southern does not necessarily agree that such expediency requires the use of IP-based networks as recommended by M/A COM, Inc.) *See also* Comments of NENA, p. 9 (In distributing the grant funds, it is critical that "interoperability is broadly defined to cover a wide range of emergency communications systems . . . .").

be broadly defined and implemented to achieve the desired public interest result – widespread, quick and cost effective public safety interoperability, regardless of the technology platform.

In sum, it is critical that the Commission and the industry not take an incorrectly narrow view of federal funding for interoperability that foregoes advances in interoperability that could be achieved in the near future in order to achieve some type of technological "purity." A broader, more expansive view is essential if the nation is to respond effectively, at least from a communications standpoint, to the next disaster event. Southern urges the Commission to work with the NTIA and DHS in order to accomplish these objectives.

## III. CONCLUSION

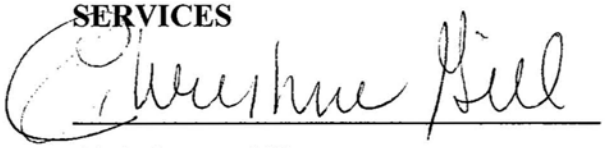
The Commission should, consistent with its authority, implement the recommendations of the Independent Panel. Such action will help ensure the rapid and efficient restoration of communications services in future disaster areas, and help save both lives and property.

For the reasons discussed above, however, the Commission should not urge federal, state and local authorities to require that communications providers be included on priority lists for the restoration of electric service. Nor should the Commission support a requirement that electric utilities coordinate their repair efforts with communications providers. While priority restoration and coordination of repair activities could be pursued on a voluntary basis, mandating such actions by electric utilities would only serve to delay electric power restoration in disaster areas. Electric utilities' ability to restore service, however, would be enhanced if electric utilities were credentialed, along with communications providers, for entry into disaster areas, and were considered as "emergency responders" under the Stafford Act. The Commission should take the necessary steps to help achieve these goals.

Finally, equipment qualifying for interoperability grants under the Deficit Reduction Act of 2005 should not be limited to only 700 MHz band radio equipment and dual 700/800 MHz band equipment. The purchase by first responders of any equipment that facilitates interoperability within or with the 700 MHz band - regardless of whether the equipment itself operates in that band - satisfies the requirements of the Act and would serve the public interest.

Respectfully submitted,

**ALABAMA POWER COMPANY, GEORGIA POWER COMPANY, GULF POWER COMPANY, MISSISSIPPI POWER COMPANY, SOUTHERNLINC WIRELESS, SOUTHERN COMPANY SERVICES**



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